THE HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.No.16439 of 2006
Date:28-08-2006

Between:

Sri N.Srinivasa Murali Krishna Prasad

Petitioner

And

The Govt. of A.P. rep. by its Secretary, Panchayat Raj Department, Hyderabad and others.

Respondents

THE HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.No.16439 of 2006

ORDER:

1. The writ petition is filed for a writ of Mandamus declaring the action of the respondents in not extending the leasehold rights of fishing over Pedda Cheuvu to the petitioner in terms of G.O. (Rt) No.317 dated 14.05.2004 issued by the Government as arbitrary, illegal and in violation of G.O. and consequently direct the respondents to extend the lease in favour of the petitioner and pass such other suitable orders.

2. The 4th respondent-Gram Panchayat filed counter affidavit in detail.

3. It is stated that in the year 2004, the fourth respondent conducted an auction for the purpose of granting leasehold rights of fishing over Pedda Cheruvu and in the said auction, the petitioner participated and emerged as the highest bidder among all participants. The fourth respondent- Gram Panchayat awarded leasehold rights of fishing over Pedda Cheruvu in the year 2004 for a period of two years. Accordingly, the petitioner invested huge amounts in growing fish right from the seedling stage by accommodating number of personnel. It is also stated that due to continuous down fall in rain, resulting in which a heavy drought rocked the 4th respondent area including the entire State. Due to severe drought conditions, there is no inflow to the said tank. As there is no sufficient water flown into the existing water of the tank as expected by the 4th respondent- Gram Panchayat, there is no development in seedling. In the month of April-May of the year 2004-05, the said Pedda Cheruvu gone to the extent of dried stage. It is also

stated that the petitioner sustained huge loss to the tune of Rs.1,00,000/-. Several other factual details also had been narrated. It is also stated that the Government issued G.O. (Rt) No.317 dated 14.05.2004 permitting them to grant leasehold rights over the tanks for a period of 5 years instead of two years. In such circumstances, petitioner made a representation to the fourth respondent –Gram Panchayat dated 21-03-2005._

3. A counter affidavit is filed substantially denying certain allegations and taking a stand that it is incorrect to say that G.O.Rt.No.317 dated 14.5.2004 was issued keeping in view the alleged loses said to have been sustained by such parties who participated in the auction became successful bidders in the entire state. G.O.Ms.No.343 also had been referred. Rule 5 of the said rules contemplates fishery rights shall be leased out annually in case of open auction and in cases of fishermen and washermen cooperative societies for a period not exceeding 3 years at a time. Admittedly, the petitioner is not representing either a Fishermen society or a Washermen society and hence the question of granting leasehold rights to a person who got the fishing rights by way of public auction beyond one year does not arise and in fact he is not entitled for the benefit of G.O.Rt No.317 and it has no application.

4. On careful perusal of the said G.O. Rt. No.317, it refers to fisheries- leasing of water bodies for a minimum period of five years for fisheries and fishermen corporations in the State. This court is of the considered opinion that the petitioner who is just an individual cannot take shelter under the said G.O. Several other factual details no doubt had been narrated. In the facts and circumstances, since the exchequer of gram panchayat always to be protected, the petitioner also is at liberty to participate in the public auction which may be conducted by the 4th respondent. Except making this observation, no further relief can be granted in the present writ petition.

5. With the above observation, the writ petition is disposed of. No

order as to costs.

28-08-2006

Stp